

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CHARLES VOLPE,

Plaintiff,

-against-

PATRICK RYDER, COMMISSIONER OF THE
NASSAU COUNTY POLICE DEPARTMENT, in
his official and individual capacities; RUSSELL
SACKS, SERGEANT IN THE NASSAU
COUNTY POLICE DEPARTMENT, in his
individual capacity; JOSEPH MASSARO,
LIEUTENANT IN THE NASSAU COUNTY
POLICE DEPARTMENT, in his individual
capacity; and COUNTY OF NASSAU,

Defendants.

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STATE OF NEW YORK)
)
COUNTY OF SUFFOLK)

Case No.: 19-cv-02236 (JMW)

**DECLARATION IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

SCOTT M. KARSON, an attorney at law admitted to practice in the State of New York
and a member of the Bar of the United States District Court for the Eastern District of New
York, declares under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a partner in the law firm of Lamb & Barnosky, LLP, counsel of record to
defendants: Patrick Ryder ("Ryder"), Commissioner of the Nassau County Police Department
("NCPD"), in his official and individual capacities; Russell Sacks, Sergeant in the NCPD, in his
individual capacity ("Sacks"); Joseph Massaro, lieutenant in the NCPD, in his individual capacity
("Massaro"); and the County of Nassau ("the County") (collectively "Defendants") in this action.
2. I submit this Declaration, and the exhibits attached hereto, Defendant' Statement of
Material Facts Pursuant to Local Rule 56.1, the Affidavit of Joseph Massaro, sworn to on March
29, 2023 (the "Massaro Affidavit"), and the accompanying Memorandum of Law, in support of

Defendants' motion pursuant to Rule 56 of the Federal Rules of Civil Procedure for an order granting summary judgment dismissing the Amended Complaint of Plaintiff, Charles Volpe ("Plaintiff" or "Volpe"), in its entirety.

3. Attached hereto as Exhibit A is a copy of the Complaint filed by Plaintiffs Volpe and Police Benevolent Association of the Police Department of Nassau County ("PBA"), dated April 16, 2019.

4. Attached hereto as Exhibit B is a copy of the Memorandum and Order of Judge Joan M. Azrack, dated November 30, 2020, with Report and Recommendation of Magistrate Judge Arlene R. Lindsay, dated October 16, 2019.

5. Attached hereto as Exhibit C is a copy of the Stipulation, dated March 1, 2021, with Amended Complaint, dated March 1, 2021, filed by Plaintiff Volpe.

6. Attached hereto as Exhibit D is a copy of Defendants' Answer to Plaintiff Volpe's Amended Complaint, dated March 19, 2021.

7. Attached hereto as Exhibit E is a copy of relevant excerpts from the Transcript of Examination Before Trial of Defendant Commissioner Ryder, conducted on September 13, 2022.

8. Attached hereto as Exhibit F is a copy of relevant excerpts from the Transcript of Examination Before Trial of Plaintiff Volpe, conducted on November 2, 2021.

9. Attached hereto as Exhibit G is a copy of relevant excerpts from the Transcript of Examination Before Trial of Defendant Sacks, conducted on February 28, 2022.

10. Attached hereto as Exhibit H is a copy of excerpts from the Transcript of Examination Before Trial of Defendant Massaro, conducted on March 2, 2022.

11. Attached hereto as Exhibit I is are copies of five photographs depicting the second-floor men's room at NCPD Headquarters, 1490 Franklin Avenue, Mineola, New York.

12. Attached hereto as Exhibit J is a copy of the Commissioner's Procedural Order 8-95.

13. Attached hereto as Exhibit K is a copy of relevant excerpts from the Transcript of Hearing on Application by Volpe for Benefits Pursuant to Section 207-c of the General Municipal Law, conducted on June 12, 2018.

WHEREFORE, it is respectfully submitted that this Court issue an order pursuant to Rule 56 of the Federal Rules of Civil Procedure granting summary judgment in favor of Defendants dismissing Plaintiff's Amended Complaint in its entirety, together with costs, disbursements and such other and further relief as this Court deems to be just and proper.

Dated: Melville, New York
March 30, 2023


SCOTT M. KARSON